

ESTTA Tracking number: **ESTTA576454**

Filing date: **12/13/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Thomas D Allan		
Entity	Individual	Citizenship	UNITED STATES
Address	222 Kern Street Jackson, CA 95642 UNITED STATES		

Correspondence information	Thomas D Allan Fate Wines 222 Kern Street Jackson, CA 95642 UNITED STATES alcoholologist@fatewines.com Phone:2092176899
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Applicant Information

Application No	86008330	Publication date	12/03/2013
Opposition Filing Date	12/13/2013	Opposition Period Ends	01/02/2014
Applicant	Precept Brands LLC Suite 3400 Seattle, WA 98102 WA		

Goods/Services Affected by Opposition

Class 033. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Wine

Grounds for Opposition

Other	MARKS ALREADY USED IN COMMERCE PRIOR TO TRADEMARK APPLICATION
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Attachments	Notice of Opposition.pdf(229296 bytes) Federal Basic Permit - Wine Wholesaler.pdf(297108 bytes) CA ABC Wine Wholesaler's Permit.pdf(376173 bytes) CA Seller's Permit.pdf(375216 bytes) Trade Name Authorization.pdf(141562 bytes) TTB Label Approval.pdf(651440 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address

record by First Class Mail on this date.

Signature	/Thomas D. Allan/
Name	Thomas D Allan
Date	12/13/2013

FATE
Thomas Allan
222 Kern Street
Jackson, CA 95642

12/12/2013

Attn: U.S. Patent and Trademark Office

I am filing an Opposition to the Trademark Application Serial Number 86008330 held by Precept Brands LLC located at 1919 Fairview Avenue Suite 3400 Seattle, WA 98102.

I have been using the F8 and FATE names in business as a Wine Wholesaler since May of 2012. I have had wine bottled for me by Bray Vineyards which carry both the F8 and FATE names on the labels.

I have included in my documentation the following:

- Label Approval from the Tax and Trade Bureau which clearly carries both F8 and FATE marks dated before the Trademark Application from Precept Brands
- Federal Basic Permit as a Wine Wholesaler from the Tax and Trade Bureau
- Wine Wholesaler Permit from the Alcohol Beverage Control of California
- Seller's Permit from the State of California
- Authorization to use the Fate brand name for bottling of wine by Bray Vineyards

I believe that use of these marks in the sale of Wine by any other organization will cause confusion as to the origin and quality of the product.

Thank you for your attention to this matter and please contact me if there are any questions or if I can be of assistance in any way.

Best regards,



Thomas Allan
Fate Wines
209-217-6899
alcoholologist@fatewines.com

2012-WHL-00864-O

DEPARTMENT OF THE TREASURY - ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

BASIC PERMIT

(Under Federal Alcohol Administration Act)

5. NAME AND ADDRESS OF PERMITTEE (Number and street, city or town, State and Zip Code)

THOMAS DAVID ALLAN

dba FATE

222 KERN ST
JACKSON, CA 95642-2518

1. PERMIT NUMBER
CA-P-21450

2. DATE OF PERMIT

05/26/2012

3. REGISTRY NUMBER (if applicable)

4. DATE OF APPLICATION 04/25/2012



6. TRADE NAMES AUTHORIZED BY THIS PERMIT (Trade name approval does not constitute approval as a brand name for labeling purposes. If needed, list on reverse or use continuation sheet.)

*Used for Contract Bottling or Packaging/Branding Purposes

7. PERMIT GRANTED FOR (ONE TYPE OF OPERATION ONLY)

Pursuant to the application of the date indicated in item 4, you are authorized and permitted to engage, at the above address, in the business of:

- a. ☐ Distilled Spirits - ☐ distiller ☐ rectifier (processor) ☐ warehouseman and/or ☐ warehouseman and bottler and while so engaged, to sell, offer or deliver for sale, contract to sell or ship, in interstate or foreign commerce, the distilled spirits so distilled or rectified, or warehoused and bottled, or the wines so rectified.
- b. ☐ Wine - ☐ producer and blender ☐ blender and while so engaged, to sell, offer or deliver for sale, contract to sell or ship, in interstate or foreign commerce, the wine so produced or blended,
- c. ☐ Importer - importing into the United States the following alcoholic beverages:
while so engaged, to sell, offer to deliver for sale, contract to sell or ship, in interstate or foreign commerce, the alcoholic beverages so imported,
- d. ☒ Wholesaler - Purchasing for resale at wholesale the following alcoholic beverages: Wine
while so engaged, to receive or to sell, offer or deliver for sale, contract to sell or ship, in interstate or foreign commerce, the alcoholic beverages so purchased.

This Permit is conditioned upon your compliance with the Federal Alcohol Administration Act; the Twenty-first Amendment and laws relating to its enforcement; all other Federal laws relating to distilled spirits, wine, and malt beverages, including taxes with respect to them; the Federal Water Pollution Control Act; and, all applicable regulations made pursuant to law which are now, or may hereafter be, in force.

This basic permit is effective from the date shown above and will remain in force until suspended, revoked, annulled, voluntarily surrendered, or automatically terminated.

THIS PERMIT WILL AUTOMATICALLY TERMINATE THIRTY DAYS AFTER ANY CHANGE IN PROPRIETORSHIP OR CONTROL OF THE BUSINESS, unless an application for a new basic permit is made by the transferee or permittee within the thirty day period. If an application for a new basic permit is timely filed, the outstanding basic permit will continue in effect until the application is acted on by the District Director, Alcohol and Tobacco Tax and Trade Bureau.

THIS PERMIT IS NOT TRANSFERABLE. ANY CHANGE IN THE TRADE NAME, CORPORATE NAME, MANAGEMENT OR ADDRESS OF THE BUSINESS COVERED BY THIS PERMIT, OR ANY CHANGE IN STOCK OWNERSHIP (MORE THAN 10%) MUST BE REPORTED TO THE NATIONAL REVENUE CENTER OR PUERTO RICO OPERATIONS OFFICE WITHOUT DELAY.

THIS IS AN

☒ ORIGINAL PERMIT

☐ AMENDED PERMIT

REASON FOR AMENDMENT

DATE OF AMENDMENT

SIGNATURE AND TITLE OF AUTHORIZED TTB OFFICIAL

FOR JOHN J. MANFREDA, ADMINISTRATOR

TTB F 5170.2 (1/2005)

STATE OF CALIFORNIA
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
ALCOHOLIC BEVERAGE LICENSE
BEER AND WINE WHOLESALER

VALID FROM

Aug 01, 2013

ALLAN, THOMAS DAVID
222 KERN ST
JACKSON, CA 95642-2518

EXPIRES

Jul 31, 2014

TYPE NUMBER DUP

17 522715

AREA CODE

0303 23

RENEWAL

BUSINESS ADDRESS DBA: FATE
(IF DIFFERENT)

CONDITIONS

OWNERS: ALLAN, THOMAS DAVID

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IMPORTANT INFORMATION

EFFECTIVE PERIOD: This license is effective only for the operating period shown above. A new license will be sent 4 to 6 weeks after the expiration date on your license if payment is timely. Your license status will remain in good standing for 60 days after the expiration date if the renewal payment was received timely. To check the status of your license, visit <http://www.abc.ca.gov/datport/LQSMenu.html>.

RENEWAL NOTICES: Renewal notices are sent to premises address unless a specific mailing address is requested. If a notice is not received 30 days before expiration date shown above, contact the nearest ABC office. To assure receipt of notices, advise your local ABC office of any change in address.

RENEWAL DATES: It is the licensee's responsibility to pay the required renewal fee by the expiration date shown above.

A Penalty is charged for late renewal and the license can be automatically revoked for failure to pay.

RENEWAL PAYMENTS: Renewal payments can be made in person by visiting your local office or sent by mail to ABC Headquarters, 3927 Lennane Drive, Suite 100, Sacramento, CA 95834. If you do not have your renewal notice, your license number and the reason for payment (ex. "renewal") must be clearly indicated on the check. You can contact your local ABC office for your renewal fee amount.

SEASONAL LICENSES: It is the licensee's responsibility to pay the required renewal fee prior to the next operating period.

POSTING: Cover this license with glass or other transparent material and post it on premises in a conspicuous place.

CONDITIONS: A copy of all applicable conditions must be kept on premises.

LICENSEE NAME: Only 10 names will be printed on each license. If there are more names associated with the license, they will be indicated by "AND XX OTHERS". All names are on file and available upon request from your local ABC office.

DBA: If you change your business name please notify your local ABC office.

If you have any questions regarding this license, contact your local ABC office. You can find the contact information for each district office at <http://www.abc.ca.gov/distmap.html>.

NOTE: CONTACT YOUR LOCAL ABC OFFICE IF YOUR LICENSED PREMISES WILL BE TEMPORARILY CLOSED FOR MORE THAN 15 DAYS OR WILL BE PERMANENTLY CLOSED.

DISPLAY CONSPICUOUSLY AT PLACE OF BUSINESS FOR WHICH ISSUED

CALIFORNIA STATE BOARD OF EQUALIZATION

SELLER'S PERMIT



ACCOUNT NUMBER

8/1/2012 SR KH 102-235586

FATE
THOMAS DAVID ALLAN
222 KERN ST
JACKSON, CA 95642-2518

NOTICE TO PERMITTEE:
You are required to obey all Federal and State laws that regulate or control your business. This permit does not allow you to do otherwise.

IS HEREBY AUTHORIZED PURSUANT TO **SALES AND USE TAX LAW** TO ENGAGE IN THE BUSINESS OF SELLING TANGIBLE PERSONAL PROPERTY AT THE ABOVE LOCATION. THIS PERMIT IS VALID ONLY AT THE ABOVE ADDRESS.

THIS PERMIT IS VALID UNTIL REVOKED OR CANCELED AND IS NOT TRANSFERABLE. IF YOU SELL YOUR BUSINESS OR DROP OUT OF A PARTNERSHIP, NOTIFY US OR YOU COULD BE RESPONSIBLE FOR SALES AND USE TAXES OWED BY THE NEW OPERATOR OF THE BUSINESS.

Not valid at any other address

For general tax questions, please call our Information Center at 800-400-7115.

For information on your rights, contact the Taxpayers' Rights Advocate Office at 888-324-2798 or 916-324-2798.

BOE-442-R REV. 15 (2-06)

A MESSAGE TO OUR NEW PERMIT HOLDER

As a seller, you have rights and responsibilities under the Sales and Use Tax Law. In order to assist you in your endeavor and to better understand the law, we offer the following sources of help:

- Visiting our website at www.boe.ca.gov
- Visiting a district office
- Attending a Basic Sales and Use Tax Law class offered at one of our district offices
- Sending your questions in writing to any one of our offices
- Calling our toll-free Information Center at 800-400-7115

As a seller, you have the right to issue resale certificates for merchandise that you intend to resell. Conversely, you have the responsibility of not misusing resale certificates. While the sales tax is imposed upon the retailer,

- You have the right to seek reimbursement of the tax from your customer
- You are responsible for filing and paying your sales and use tax returns timely
- You have the right to be treated in a fair and equitable manner by the employees of the Board
- You are responsible for following the regulations set forth by the Board

As a seller, you are expected to maintain the normal books and records of a prudent businessperson. You are required to maintain these books and records for no less than four years, and make them available for inspection by a Board representative when requested. You are also expected to notify us if you are buying, selling, adding a location, or discontinuing your business, adding or dropping a partner, officer, or member, or when you are moving any or all of your business locations. If it becomes necessary to surrender this permit, you should only do so by mailing it to a Board office, or giving it to a Board representative.

If you would like to know more about your rights as a taxpayer, or if you are unable to resolve an issue with the Board, please contact the Taxpayers' Rights Advocate Office for help by calling toll-free, 888-324-2798 or 916-324-2798. Their fax number is 916-323-3319.

Please post this permit at the address for which it was issued and at a location visible to your customers.

STATE BOARD OF EQUALIZATION

Sales and Use Tax Department

FATE
222 Kern Street
Jackson, CA 95642

July 18, 2012

Bray Vineyards, LLC
10590 Shenandoah Road
Plymouth, CA 95669

To Whom It May Concern:

This letter is written to authorize Bray Vineyards BWCA-6871 to use as a trade name the following;

Fate

Sincerely,

A handwritten signature in black ink, appearing to read 'Thomas Allan', with a stylized flourish at the end.


Thomas Allan
Owner

FOR TTB USE ONLY			DEPARTMENT OF THE TREASURY ALCOHOL AND TOBACCO TAX AND TRADE BUREAU APPLICATION FOR AND CERTIFICATION/EXEMPTION OF LABEL/BOTTLE APPROVAL (See Instructions and Paperwork Reduction Act Notice on Back)	
TTB ID 12220001000453				
1. REP. ID. NO. (If any)	CT 80	OR 01		
PART I - APPLICATION				
2. PLANT REGISTRY/BASIC PERMIT/BREWER'S NO. (Required) BW-CA-6871		3. SOURCE OF PRODUCT (Required) <input checked="" type="checkbox"/> Domestic <input type="checkbox"/> Imported		8. NAME AND ADDRESS OF APPLICANT AS SHOWN ON PLANT REGISTRY, BASIC PERMIT OR BREWER'S NOTICE. INCLUDE APPROVED DBA OR TRADENAME IF USED ON LABEL. (Required) BRAY VINEYARDS, OLIVER W. AND ROBIN P. BRAY 10590 SHENANDOAH RD PLYMOUTH CA 95669 FATE (Used on label)
4. SERIAL NUMBER (Required) 120006		5. TYPE OF PRODUCT (Required) <input checked="" type="checkbox"/> WINE <input type="checkbox"/> DISTILLED SPIRITS <input type="checkbox"/> MALT BEVERAGE		
6. BRAND NAME (Required) FATE			8a. MAILING ADDRESS, IF DIFFERENT	
7. FANCIFUL NAME (If any)				
9. EMAIL ADDRESS DAN@WESTARCOMPLIANCE.COM		10. GRAPE VARIETAL(S) (If any) Tempranillo	11. FORMULA	18. TYPE OF APPLICATION (Check applicable box(es))
12. NET CONTENTS 750 MILLILITERS		13. ALCOHOL CONTENT 14	14. WINE APPELLATION IF ON LABEL SHENANDOAH VALLEY OF CALIFORNIA	a. <input checked="" type="checkbox"/> CERTIFICATE OF LABEL APPROVAL
15. WINE VINTAGE DATE IF ON LABEL 2008		16. PHONE NUMBER (530) 432-2262	17. FAX NUMBER (530) 432-2292	b. <input type="checkbox"/> CERTIFICATE OF EXEMPTION FROM LABEL APPROVAL "For sale in _____ only" (Fill in State abbreviation.)
				c. <input type="checkbox"/> DISTINCTIVE LIQUOR BOTTLE APPROVAL. TOTAL BOTTLE CAPACITY BEFORE CLOSURE _____ (Fill in amount)
				d. <input type="checkbox"/> RESUBMISSION AFTER REJECTION TTB ID. NO. _____
19. SHOW ANY INFORMATION THAT IS BLOWN, BRANDED, OR EMBOSSED ON THE CONTAINER (e.g., net contents) ONLY IF IT DOES NOT APPEAR ON THE LABELS AFFIXED BELOW. ALSO, SHOW TRANSLATIONS OF FOREIGN LANGUAGE TEXT APPEARING ON LABELS.				
PART II - APPLICANT'S CERTIFICATION				
Under the penalties of perjury, I declare; that all statements appearing on this application are true and correct to the best of my knowledge and belief; and, that the representations on the labels attached to this form, including supplemental documents, truly				

12/11/2013

OMB No. 1513-0020

and correctly represent the content of the containers to which these labels will be applied. I also certify that I have read, understood and complied with the conditions and instructions which are attached to an original TTB F 5100.31, Certificate/Exemption of Label/Bottle Approval.

20. DATE OF APPLICATION 08/07/2012	21. SIGNATURE OF APPLICANT OR AUTHORIZED AGENT (Application was e-filed)	22. PRINT NAME OF APPLICANT OR AUTHORIZED AGENT KATHI WATSON
PART III - TTB CERTIFICATE		
This certificate is issued subject to applicable laws, regulations and conditions as set forth in the instructions portion of this form.		
23. DATE ISSUED 08/29/2012	24. AUTHORIZED SIGNATURE, ALCOHOL AND TOBACCO TAX AND TRADE BUREAU 	

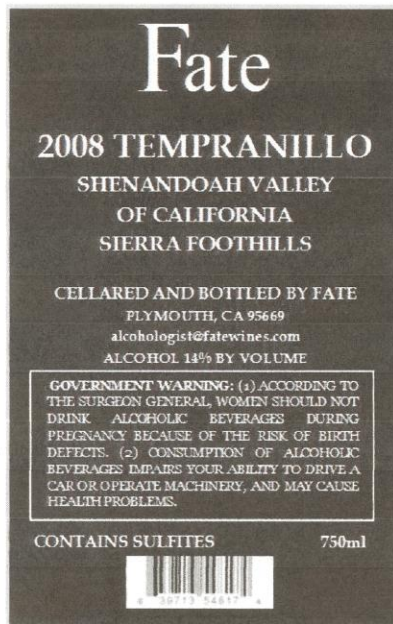
FOR TTB USE ONLY	
QUALIFICATIONS TTB has not reviewed this label for type size, characters per inch or contrasting background. The responsible industry member must continue to ensure that the mandatory information on the actual labels is displayed in the correct type size, number of characters per inch, and on a contrasting background in accordance with the TTB labeling regulations, 27 CFR parts 4, 5, 7, and 16, as applicable.	EXPIRATION DATE (if any)
STATUS THE STATUS IS APPROVED.	
CLASS/TYPE DESCRIPTION TABLE RED WINE	

AFFIX COMPLETE SET OF LABELS BELOW

Image Type:

Back

Actual Dimensions: 2.5 inches W X 4 inches H



12/11/2013

OMB No. 1513-0020



Image Type:

Brand (front)

Actual Dimensions: 2.5 inches W X 4 inches H